

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN

BEFORE THE REAL ESTATE APPRAISERS BOARD

IN THE MATTER OF THE DISCIPLINARY

PROCEEDINGS AGAINST

NORMAN R. DeBROUX,

RESPONDENT.

FINAL DECISION AND ORDER

97 APP 028

LS9908264APP

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The parties to this action for the purpose of Wis. Stats. 227.53 are:

*Norman R. DeBroux
3401 N. Fiesta Dr.
Appleton, WI 54911*

*Bureau of Business and Design Professions
Real Estate Appraisers Board
P.O. Box 8935
Madison, WI 53708-8935*

*Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935*

The State of Wisconsin, Real Estate Appraisers Board, having considered the Stipulation agreement annexed-here to of the parties, in resolution of the captioned-matter, makes the following:

ORDER

NOW. THEREFORE, IT IS HEREBY ORDERED pursuant to jurisdiction and authority granted to the Board in Chapter 458, Wis. Stats., and sec. RL 2.12, Wis. Adm. Code, that the Stipulation agreement annexed hereto, filed by Complainant's attorney, shall be and hereby is incorporated, made and ordered the Final Decision and Order of the State of Wisconsin, Real Estate Appraisers Board.

Let a copy of this order be served on Respondent by certified mail.

Dated this 26th day of August_1999.

Paul Vozar, or designee

Real Estate Appraisers Board

STATE OF WISCONSIN

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IN THE MATTER OF THE DISCIPLINARY :

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RESPONDENT.

97 APP 028

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Respondent Norman R. DeBroux (DeBroux), and Complainant's Attorney, Henry E. Sanders, Division of Enforcement, having reached agreement for disposition of the captioned-matter, stipulate and agree as follows:

1. Respondent Norman R. DeBroux, 3401 N. Fiesta Dr., Appleton, WI. 54911, was at all time material to the complaint, certified as a Certified Residential Appraiser, and had been so certified under the provisions of ch. 458, Wis. Stats., since January 9, 1992.

2. This Stipulation shall be submitted to the Real Estate Appraisers Board (Board) for approval and disposition of the matter. If the terms of the Stipulation are not acceptable to the Board, then the parties shall not be bound by any of the provisions of the Stipulation.

a. This Stipulation is dispositive of Investigative Complaint #97 APP 028.

3. Respondent has been advised of his right to a public hearing on each and every allegation of the complaint, but hereby freely and voluntarily waive his right to a hearing in this matter on the condition that all provisions of this Stipulation be acceptable to and approved by the Board.

a. Respondent further agrees to waive any appeal of the Board's Final

Decision and Order Adopting the Stipulation Agreement.

4. The Department received a complaint against Respondent regarding an appraisal performed by him dated March 14, 1995, from a homeowner/purchaser of an FHA/HUD insured home. Respondent's appraisal report noted no significant defects and the purchaser was granted the FHA/HUD insured loan.

5. Thereafter, several months after the purchase, the purchaser began to notice water spots, and water related problems that resulted in necessary roof repair. The Purchaser was required to obtain a second mortgage in order to pay her mortgage note and second mortgage obligations.

6. Because Complainant had a difficult time making the mortgage payments, she listed the subject property for sale in 1997, subject to FHA approval, and an appraisal. An FHA approved appraiser went and appraised the subject property in March 1997, on behalf of a prospective purchaser, and would not approve the sale per FHA Standards because of dry rot of the floorboards in the property's crawl space.

7. A couple of other estimates resulted in significant estimates to repair the dry rot related problems, which were prohibitive to the seller/owner. Ultimately, Complainant's lender sent out an FHA approved inspector to view the problems, and the inspector concluded in pertinent part that:

"Upon my inspection...I looked into the crawl space, through a trap door...I

found ...2x4 floor joist, dry rot, no vapor barrier and not enough space under

the heat ducts for anyone to work (all substandard conditions). In twenty years

of doing inspections I have never seen a similar floor support system."

"I could understand why the second appraiser would not approve the home for

an FHA Insured Loan."

8. The inspector consulted with an Architect friend of his, and together they estimated that to repair the problem would be between \$15,000 to \$20,000.

9. An investigation ensued into the matter, and Respondent responded to the complaint in pertinent part that:

" there was an exterior and interior inspection done by me on this property...to the best of my recollection, there were no obvious defects noted on the roof or crawl space that would cause this property to not conform to FHA Standards in my opinion. As stated in the statement of Limiting Condition's included in this appraisal, it is the appraisers' obligation to note any obvious defects in the property. It is not the appraisers' responsibility to make a detailed home inspection. It is my understanding that Ms._signed a waiver declining a home inspection that could have found any deficiencies."

10. Respondent had noted variously in his appraisal report that "there are no apparent adverse factors which would affect the subject marketability...44 year old one story with a crawl space...no present or delayed maintenance was noted..."

11. Per investigative contact with The Wisconsin State Office, U.S. Department of Housing and Urban Development (HUD), The Department was informed in pertinent part that "HUD Handbook 4150.1 (now in the Department's possession) does establish criteria for the inspection of subject property on pages 8-2 & 8-3 and guidance for repair requirements on pages 5-5 through 5-8, that, HUD depends on "Direct Endorsement Underwriters who work for sponsor lenders to review and approve the appraisal and credit documents permitting the loan to close...that the appraiser is required by HUD/FHA to inspect the crawl space area as part of his appraisal process and comply with HUD Handbooks 4150.1 and 4905.1."

a. In order to be placed on Wisconsin HUD/FHA Lender Selection Roster, appraiser must submit an application to HUD, which certifies he has read HUD Handbook 4150.1.

12. Chapter 8, HUD/FHA Handbook 4150.1. Rev-1, Section 8-2 D Inspection of Property provides: 8-2 D. "A crawl space must be examined for dampness or trash, vapor barrier, distance from floor joists to ground, adequate ventilation and any obvious structural problems. The appraiser should note in the appraisal report when the distance from the floor joists to the ground is less than 18 inches. The local HUD Office may require a minimum distance from the ground to the floor joists for the property to be acceptable."

13. Chapter 2, HUD/FHA Handbook 4905.1. Rev-1, Section 2-14 Provides: 2-14 " Crawl Space. In order to insure against conditions which could cause deterioration to the building and seriously affect

the marketability of the property, it is required that:

A. There must be adequate access to crawl space.

B. The floor joists must be sufficiently above the highest level of the ground to provide access for maintenance and repair of ductwork and plumbing.

C. The crawl space must be clear of all debris and properly vented.

D. Any excessive dampness or ponding of water in the crawl space must be corrected."

Accordingly, based upon the above-enumerated facts, Respondent is deemed to have violated Secs. 458.26 (3)(a)-(c), Wis. Stats., (a) made a material misstatement... in other information furnished to the Department, (b) engaged in unprofessional or unethical

conduct in violation of rules promulgated under sec. 458.24, and (c) engaged in conduct while practicing as an appraiser which evidences a lack of knowledge or ability to apply professional principles or skill: Violated Sec. RL 86.01(5) and/or (6), Wis. Adm. Code, (5) Certified and Licensed Appraisers shall not knowingly omit, understate, misrepresent or conceal material facts in their appraisals, and/or (6) A Certified or Licensed Appraiser shall not offer to perform, not perform, services which he or she is not competent to perform through education or experience; and thusly, also violated USPAP Standards Rule 2-1 (a),(b),(c), and 2-2 (f)-(g).

14. Based on the above and in settlement of these matters, Respondent DeBroux hereby consents, accepts and agrees to receive a reprimand, and pay \$500.00 in partial assessment of costs. The \$500.00 shall be paid at the time of execution of this Stipulation, payable by Cashier's Check or Money Order, and made payable to the Department of Regulation and Licensing and submitted to the attention of the Department's monitor:

Ted Nehring

Monitor

Division of Enforcement

P.O. Box 8935

Madison, WI 53708-8935

15. Respondent agrees that this Stipulation Agreement may be incorporated into the Board's Final Decision and Order Adopting the Stipulation Agreement.

16. Respondent further agrees that Complainant's Attorney Sanders, and the Case Advisor assigned to the case, may appear at any closed deliberative meeting of the Board with respect to this Stipulation, but those appearances are limited solely to clarification, justification and to statements in support of the Stipulation and for no other purpose.

Norman DeBroux

August 25th, 1999

Respondent

Date

Henry E. Sanders

August 25th, 1999

Complainant's Attorney

Date

Division of Enforcement